

Sunset Public Hearing Questions  
**Board of Osteopathic Examination**  
Created by Section 63-9-101, Tennessee Code Annotated  
(Sunset Termination June 2019)

1. Provide a brief description of the board, including information about its purpose, statutory duties, and administrative attachment.

**Answer:** The Board of Osteopathic Examination was created in 1905 by an act of the State Legislature. This Board is responsible for safeguarding the health, safety, and welfare of Tennesseans, by requiring that all that practice osteopathic medicine within this state are qualified. The Board interprets the laws, rules, and regulations to determine the appropriate standards of practice to ensure the highest degree of professional conduct. The Board is authorized to issue licenses to qualified candidates who have completed appropriate education and successfully completed required examinations. The Board is also responsible for the investigation of alleged violations of the Practice Act and rules, and is responsible for the discipline of licensees who are found guilty of such violation. The administrative staff of the Division of Health Related Boards supports the Board by issuing licenses to those who meet the requirements of the law and rules.

The Board meets as needed throughout the year for purposes of conducting administrative business concerning ratifying licenses, promulgating rules, disciplinary matters, etc. The six (6) Board members are appointed by the Governor to serve five (5) year terms. A quorum of four (4) members is required to conduct business, and the meetings are open to the public.

2. Provide a list of current board members. For each member indicate how the member's presence complies with Section 63-9-101, *Tennessee Code Annotated*. Please indicate each member's race and if any members are 60 years of age or older, as referenced in Section 63-9-101(a), *Tennessee Code Annotated*.

**Answer:**

MEMBERS	Gender	Race	Over the Age of 60	REPRESENTATION
Jan Day Zieren, DO, MPH 139 Links Court Tazewell, TN 37879	Female	Caucasian	Yes	East Tennessee Specialty:Family Medicine
Shant Hagop Garabedian, DO 118 Barrett Place Jackson, TN 38305	Male	Lebanese- American	No	West Tennessee Specialty:Family Medicine & Emergency Medicine

Jeffrey Lamont Hamre, DO 467 Pond Apple Road Clarksville, TN 37043	Male	Caucasian	No	Middle Tennessee Specialty: Obstetrics & Gynecology
J. Michael Wieting, DO Lincoln Mem. University 6965 Cumberland Gap Pkwy Harrogate, TN 37752	Male	Caucasian	Yes	East Tennessee Specialty: Physical Medicine & Rehabilitation
Shannon Kilkelly, DO 2121 Sharondale Drive Nashville, TN 37215	Male	Caucasian	No	Middle Tennessee Specialty
Penny Grace Judd 905 Iroquois Trail Goodlettsville, TN 37072	Female	Caucasian	No	Citizen

3. Are there any vacancies on the board? If so, what steps have been taken to fill those vacancies?

**Answer:** No

4. How many times did the board meet in the last two years? How many members were present at each meeting?

**Answer:**

Meeting Date	Members Present	Members Absent
March 2, 2016	6	0
May 4, 2016	6	0
August 10, 2016	6	0
November 2, 2016	6	0
March 1, 2017	4	2
May 3, 2017	5	1
August 9, 2017	6	0
November 14, 2017	6	0

5. What per diem or travel reimbursement do members receive? How much was paid to board members during the last two years?

**Answer:** Yes, each member of the board shall receive fifty dollars (\$50) per diem and expenses when actually engaged in the discharge of official duties. All reimbursement for travel expenses shall be in accordance with the comprehensive travel regulations as

promulgated by the department of finance and administration and approved by the attorney general and reporter.

In January 2017 Tenn. Code Ann. § 63-9-103 (b) was revised to state, each member of the board shall receive one hundred dollars (\$100) per diem and expenses when actually engaged in the discharge of official duties. All reimbursement for travel expenses shall be in accordance with the comprehensive travel regulations as promulgated by the department of finance and administration and approved by the attorney general and reporter.

For calendar years 2016 – 2017 the Board members were paid \$11,834.49 in per diem and travel.

6. What were the board's revenues and expenditures for the last two years? Does the board carry a balance and, if so, what is the total of that balance? If expenditures have exceeded revenues, and the board does not carry a balance, what was the source of the revenue for excess expenditures?

Fiscal Year	FY2017	FY2016
Revenue	\$275,909.32	\$273,808.14
Expenditures	\$184,602.78	\$171,242.70
Carryover	\$794,230.88	\$713,249.43

7. Has the board promulgated rules as authorized by Section 63-9-101(c)? If so, please cite the reference.

**Answer:** No.

8. Is the board subject Sunshine Law requirements (Section 8-44-101, *Tennessee Code Annotated*) for public notice of meetings, prompt and full recording of minutes, and public access to minutes? If so, what procedures does the board have for informing the public of its meetings and making its minutes available to the public? If available, please provide a link to board meeting minutes.

**Answer:** Yes, the Board is subject to Sunshine law requirements. All Sunshine Notices, including amended notices, are submitted by the Board's administrative office to the Health-Related Boards' internet administrator by the 15th of the month preceding the applicable board meeting. The HRB Internet administrator ensures that the Sunshine Notice is posted on the Internet and that the Commissioner's Office is notified. Regarding minutes, the board's administrative staff attends all meetings and takes minutes. Those minutes are then prepared for review and ratification by the board at its next regularly scheduled meeting. After the

minutes are ratified, they are then placed on the board's web site. Minutes and other board information can be found at:

<https://www.tn.gov/health/health-program-areas/health-professional-boards/osteo-board.html>

9. Does the board have any policies in place to address potential conflicts of interest by board members, board employees, or other state employees who work with the board in any capacity? Please provide a description of those policies.

**Answer:** All Board members are educated on the Department of Health's Conflict of Interest Policy and reminded during the course of each meeting of the obligation to strictly adhere to it. Board members are required to sign a conflict of interest statement upon appointment and annually thereafter. Board staff signs a conflict of interest statement annually. It is the responsibility of the board administrator to insure that the Conflict of Interest Statement is properly and timely signed. The board's administrative office keeps signed copies on file in the Central Office of Health Related Boards.

10. What were the board's major accomplishments in the last two years?

**Answer:** A member of the board reviewed **each** application for licensure to determine appropriateness for licensure prior to the issuance of a go to work authorization. At its eight meetings during the relevant time frame, the board has approved for licensure approximately 830 osteopathic physicians and approved the re-licensure of approximately 737 osteopathic physicians. The board has actively and enthusiastically contributed to the Controlled Substance Monitoring Database Committee. During the relevant time frame (2016-2017) an osteopathic physician representing the board has attended seven of its nine meetings. To comply with a public chapter, the board at its May 4, 2016 meeting adopted a definition of "pain addiction specialist." Additionally, to comply with Public Chapter 942, the board contributed a member to a task force charged with developing minimal standards for the prescribing of hormonal contraceptives by pharmacists. The board has worked to align its policies and rules regarding continuing education and authorized a rule making hearing for that purpose. It also approved a rule for rule making that would repeal the rules that implemented the intractable pain act which was repealed by the Legislature.

11. Please provide a list of all fees collected by the board and indicate whether these fees were established through rule or through legislative statute.

**Answer:** The fees authorized by statute are established by the Boards and modified by rules that are approved by joint government operations committee.

Fee Schedule:

Application Fee	\$400.00
Licensure Renewal Fee	\$300.00
State Regulatory Fee	\$10.00
Late Licensure Renewal Fee	\$200.00
Duplicate License Fee	\$25.00
Certificate of Fitness	\$10.00
Licensure Exemption Fee	\$50.00
Special Training License Fee	\$50.00

12. How many osteopathic physicians are there in Tennessee? Are they all under the authority of the board? If not, what types of practitioners are not included? Should they be included under the board's authority?

**Answer:** The total number of active osteopathic licensees at the end of April, 2018 was 1,533 All licensees are under the authority of the Board.

13. How many new licenses and how many renewals has the board issued during the last two years? How does the board ensure that licensees meet all licensure requirements

**Answer:** The Board issued the following licenses in 2016 and 2017:

Osteopathic Physicians	Renewals	Initial Applications
January 1 – December 31, 2016	549	610
January 1 – December 31, 2017	188	220

The Board ensures that licensees continue to meet licensure requirements through the biennial renewal process. Licensees must complete continuing education in accordance with Rule 1050-02-.12 which requires 40 hours of continuing medical education, one of which must be related to prescribing practices. (Note: Effective July 1, 2014, osteopathic physicians will be required to obtain an additional hour in prescribing practices.) Further, at the time of renewal, each licensee must also disclose any circumstance that would impact his/her ability to practice as an osteopathic physician in the state of Tennessee. Failure to meet any of these requirements would subject the licensee to discipline. In addition, the Board relies on the complaint process to identify and address violations of applicable standards.

14. How many licenses were issued under reciprocity in the last two years? How did the board ensure that the other state's or country's standards met Tennessee licensing requirements?

**Answer:** None

15. How many license applications did the board deny in the last two years? What were the reasons for denial?

**Answer:** None

16. How many licenses did the board revoke or suspend during the last two years? What were the reasons for the revocations or suspensions? Has anyone been cited for practicing without a license? If yes, please provide relevant additional information.

**Answer:** One. At its March 2016 board meeting, the board ratified an agreed order accepting the voluntary surrender of an osteopathic physician license. A voluntary surrender has the same effect as a revocation. The respondent osteopathic physician was found to have pled guilty to a crime that he did not report to the board. The respondent was given judicial diversion. No person has been cited for practicing without a license.

17. How many complaints did the board receive and investigate during the last two years? What types of complaints were received? What was the source of the complaints? How many resulted in some form of remedial action being taken by the board?

**Answer:**

1. Number of Complaints on Osteopathic Physicians Investigated in 2016 = 14  
Number of Complaints on Osteopathic Physicians Investigated in 2017 = 25

2a. Breakdown of types of Complaints (by assigned allegation code) investigated in 2016 –

- Care of Services = 1
- Overprescribing = 2
- Unprofessional Conduct = 7
- Failure to provide Medical Records (Patient's) Request = 0
- Violation of Right-To-Know (RTK)/MMPR Statute = 0
- Unlicensed Practice = 0
- Malpractice/Negligence = 1
- Advertising Violation = 0
- Other – Allegation of Employment of a Minor with Criminal Record = 0
- Fraud/False billing = 1

- Drugs = 1
- Criminal charges = 1
- Failure to supervise = 0

2b. Breakdown of types of Complaints (by assigned allegation code) investigated in **2017** –

- Care of Services = 1
- Overprescribing = 2
- Unprofessional Conduct = 3
- Failure to provide Medical Records (Patient's) Request = 3
- Violation of Right-To-Know (RTK)/MMPR Statute = 0
- Unlicensed Practice = 0
- Malpractice/Negligence = 8
- Advertising Violation = 1
- Other – Allegation of Employment of a Minor with Criminal Record = 0
- Fraud/False billing – 0
- Drugs = 1
- Criminal charges = 0
- Failure to supervise = 4
- Prescribing to friends/family without record = 2

3a. Breakdown of Outcome of Investigation/Remedial Action by the Board in **2016** –

- Sent to OGC for further legal action = 3
- Closed with a Letter of Warning = 1
- Closed with a Letter of Concern = 0
- Closed without any finding of practice act violation = 7
- Investigated files pending board/OGC review = 0
- Complaint file assigned field investigation still being investigated = 1

3b. Breakdown of Outcome of Investigation/Remedial Action by the Board in **2017** –

- Sent to OGC for further legal action = 4
- Closed with a Letter of Warning = 7
- Closed with a Letter of Concern = 0
- Closed without any finding of practice act violation = 8
- Investigated files pending board/OGC review = 2
- Complaint file assigned field investigation still being investigated = 4

18. Describe the process by which the board receives, handles, and tracks complaints. Are there written procedures? How are complaints assessed and prioritized? Is a complaint log maintained? At what point is a complaint closed?

**Answer:** Complaints are triaged at intake to ensure that emergency issues are handled immediately, with investigations commencing on the same and/or following day. Routine complaints are processed according to an established review procedure utilizing practicing members of the profession as consultants and a staff attorney assigned by the Department of Health. Complaints are designated by priority code, which can change during the course of an investigation. Complaints are tracked utilizing a computerized database system.

Written procedures are in place to serve as a guideline for the effective investigation and preparation of the necessary evidence for purposes of prosecution.

A complaint can be closed at initial review and/or after an investigation.

Benchmarks have been established for the review and the investigative stages. A 30 day benchmark is established for the review process with a 90 day benchmark established for the investigation process. Across all boards, review benchmarks are met approximately 80% of the time, while investigation benchmarks are met approximately 60%. A "Continuous Quality Improvement" system is in place to analyze case movement and tracking.

19. What steps has the board taken to educate the public, consumers, and license holders about how to file a complaint? When considering enforcement actions taken by the board in the last two years, how did the board become aware of the situations resulting in enforcement actions?

**Answer:** The Department of Health maintains a website at <https://www.tn.gov/health/health-program-areas/health-professional-boards/report-a-concern.html> which provides consumers with an in-depth description of the complaint process including how to file a complaint and what they may expect from the Department of Health. The Board became aware of the action that gave rise to the discipline through a complaint filed with the Department of Health, Division of Health-Related Boards, and Office of Investigations.

20. How many contested cases did the board hear during the last two years? How many of these cases were heard by an administrative law judge and reviewed by the board? Of the cases heard, how many resulted in penalties being dismissed? Reduced? Upheld?

**Answer:** None.



21. Does the board have the authority to impose civil penalties? If so, what penalties have been assessed in the last two years and what is the amount of those penalties?

**Answer:** Yes. Please see the accompanying excel file for the amounts.

22. What reports does the board prepare on its operations, activities, and accomplishments? Who receives copies of these reports?

**Answer:** The board reports its disciplinary action to the Department of Health for inclusion on the Monthly Disciplinary Action Report. The board also reports its disciplinary action to the Office of Investigations for the purpose of reporting to the National Practitioner Databank when required by law and for monitoring for compliance if/when necessary. Finally, the board reports its licensing activities and its disciplinary actions to the Federation of State Medical Boards for its inclusion in the FSMB's databank for sharing and distribution as necessary among member boards.

23. Describe any items related to the board that require legislative attention and any proposed legislative changes.

**Answer:** None.

24. Should the board be continued? To what extent and in what ways would the absence of the board affect the public health, safety, or welfare of Tennessee citizens?

**Answer:** Yes, the Board should be continued. Absent the presence of the Board of Osteopathic Examinations, members of the public whose health care is provided by osteopathic physicians would be uncertain that their healthcare provider is fully qualified to practice his/her profession and does so in a safe and ethical manner that meets or exceeds the standard of care for an osteopathic physician in the state of Tennessee.

25. Please provide a list of current board staff.

**Answer:**

Name	Position Title	Gender
Stacy Tarr	Reg. Board Admin Dir. 1	Female Caucasian
Candyce Waszmer	Reg. Board Admin Dir. 1	Female Caucasian
Sherry Williams	Reg. Board Admin Asst. 2	Female African American
Orlanda Folston	Licensing Technician	Female Hispanic
Brandy Denny	Licensing Technician	Female Caucasian
Regina Cummings	Licensing Technician	Female Caucasian

26. Please provide a list of all board contracts, detailing each contractor, the services provided, and the amount of the contract.

**Answer (a):**

Grant Contract

Contractor: Tennessee Medical Foundation  
Contract Period: From July 1, 2014 through June 30, 2019  
Contract Amount: \$125,000  
Service: Peer Assistance Program

Service Description: A program of prevention, referral and monitoring services for licensed osteopathic physicians and applicants who are impaired, abuse alcohol or other drugs, or are at risk of such abuse. The Tennessee Medical Foundation is prepared to help with (a) alcohol or drug dependency; (b) disruptive behavior; (c) boundary issues; (d) psychiatric disorders; (e) stress issues; and (f) cognitive deficits.

**Answer (b):** The Board contracts with the Federation of State Medical Boards - The Federation of State Medical Boards (Federation and/or FSMB) is a national non-profit organization representing the 70 medical boards of the United States and its territories. The FSMB's mission is to continuously improve the quality, safety and integrity of health care through developing and promoting high standards for physician licensure and practice. Based in Dallas, the FSMB serves as the national voice for its member boards and is a recognized authority throughout the United States on issues related to medical licensure and discipline.